

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re the application of: Jeanette McCarthy, *et al.*

Serial No.: 10/017,721

Filed: December 14, 2001

For: DIAGNOSIS AND TREATMENT OF
VASCULAR DISEASE

Attorney Docket No.: MMI-003

Group Art Unit: 1631

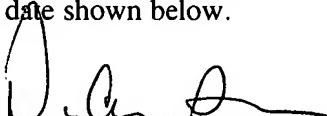
Examiner: Carolyn L. Smith

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

CERTIFICATION UNDER 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail Receipt No. EV 311022328 US in an envelope addressed to: Commissioner for Patents, Post Office Box 1450, Alexandria, VA 22313-1450, on the date shown below.

December 30, 2003
Date of Signature and of Mail Deposit

By: 
DeAnn F. Smith, Esq.
Registration No. 36,683
Attorney for Applicants

RESPONSE TO OFFICE COMMUNICATION

Dear Sir:

This is in response to the Office communication dated November 25, 2003 (Paper No. 10). A request for the appropriate extension of time is included herewith.

Remarks begin on page 3 of this paper

Election/Restriction

In the instant Office communication, the Examiner has stated that the communication filed by Applicants on August 19, 2003 is non-responsive to the prior Restriction Requirement, dated June 19, 2003. In particular, the Examiner has stated that “the amendment does not satisfy the sequence election requirement as stated on page 5, first full paragraph, on the previous Office Action. Applicants have elected SEQ ID NO:1, with traverse but they have failed to elect which nucleotide position(s) they would like to be examined, as stated on page 5, lines 6-8, of the previous Office Action.”

In Applicants’ previous response, dated August 19, 2003, Applicants elected, without traverse, **Group II** (claims 8-21, 40-43, and 49-62) under 35 U.S.C. §121 for prosecution in the present application. In addition, Applicants elected SEQ ID NO:1, ***with traverse.***

In the prior Restriction Requirement, dated June 19, 2003, the Examiner has further required that Applicants elect “a single nucleic acid sequence with one nucleotide position therein, or alternatively, ***a specific set of sequence and/or nucleotide positions within each elected sequence.***”

Applicants understand the above statement to require that Applicants’ elect a single sequence. Furthermore, Applicants’ understand the above statement to require the election of one or more nucleotide positions within the elected sequence. Accordingly, Applicants hereby elect nucleotide positions 55322, 53502, 60793, 58445, 52861, and 49556, within SEQ ID NO:1, ***with traverse.***

Applicants would like to reiterate the traversal of the requirement to elect a single nucleotide sequence. As previously stated, the elected claims are directed to the use of one or more specific polymorphisms within SEQ ID NO:1, either alone, **or in combination with,** one or more specific polymorphisms within SEQ ID NO:3. Accordingly, Applicants respectfully submit that the claimed invention may include methods for use of polymorphism(s) within SEQ ID NO:1, polymorphism(s) within SEQ ID NO:3, or polymorphisms from **both** SEQ ID NO:1 and SEQ ID NO:3. Therefore, Applicants respectfully submit that in order for the **complete** invention to be included within the search,

both SEQ ID NO:1 and SEQ ID NO:3, as well as the nucleotide positions recited within the claims for each, should be searched.

Furthermore, as the M.P.E.P. states:

[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. M.P.E.P. § 803.

Applicants respectfully submit that a search with regard to of SEQ ID NO:1 and SEQ ID NO:3 would not present an undue search burden to the Examiner.

CONCLUSION

It is respectfully submitted that this application is in condition for allowance. If a telephone conversation with Applicants' Attorney would expedite the prosecution of the above-identified application, the Examiner is urged to call Applicants' Attorney at (617) 227-7400.

Respectfully submitted,



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Date: December 30, 2003